

**CITY OF LODI  
COUNCIL COMMUNICATION**

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**AGENDA TITLE:** Provide Staff Direction Regarding Drafting Local Hiring Ordinance**MEETING DATE:** January 19, 2011**PREPARED BY:** City Attorney's Office

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**RECOMMENDED ACTION:** Provide staff direction regarding drafting local hiring ordinance.

**BACKGROUND INFORMATION:** The City Attorney's office was asked by Mayor Pro Tempore Mounce to research and present initial options for a local hiring ordinance. It is important to recognize at the outset however, that there are a number of legal impediments to the most direct form of a local hiring program: simply requiring contracts to be awarded only to businesses located in the city, or businesses that have a specified percentage of employees residing in the city.

There are a number of legal obstacles to such ordinances. Public Contracts Code Section 20162 requires General Law cities such as Lodi to award Public Works contracts (generally meaning the construction, repair, or improvement of a public building, or public infrastructure) to the lowest bidder. The Code makes no exception based on a preference for local residents. Moreover, a number of courts have concluded that local hiring ordinances may violate the Equal Protection Clause, the Commerce Clause of the U.S. Constitution, and the California Constitution's right to work and travel. (*United Bldg & Construction Trades v. City of Camden* 79 L.Ed 2d 249 (1984) and *Cooperrider v. Civil Service Commission* 97 Cal App 3d 495 (1979).)

The Charter City of San Francisco's local hiring ordinance survived constitutional challenge however, because it was allegedly designed to remedy the competitive disadvantages faced by businesses housed in San Francisco (namely high cost) and not by a general desire to favor local residents over those outside the City and County of San Francisco. (*Associated General Contractors v. City and County of San Francisco* 813 F.2d 922 (9th Cir. 1987).

To address these challenges some cities have adopted ordinances that require good-faith efforts by contractors to hire workers who reside locally. Typically these ordinances do not require a quota, but instead operate similarly to the Disadvantaged Business Outreach requirements frequently imposed as a condition of federal funding and familiar to many large-scale contractors. Simply put, a contractor and its subcontractors are required to advertise locally in an effort to hire local workers for the public project, and are required to supply evidence that it has done so. Examples of such programs from Pasadena and Stockton are attached as exhibits A and B.

Given Lodi's smaller population, staff requests direction regarding both the goal percentage for local hires and the definition of local residents. It may be unrealistic to assume that Lodi alone has a sufficient supply of plumbers, framers, masons and other trades to supply 50-percent of the work force for a major public project. It is unknown whether a number of contractors that would commonly be considered local, such as A.M. Stephens, F&H Construction, Ford, DSS, and Diede Construction, employ a sizeable number of local workers. One alternative is to broaden the definition of local resident to San Joaquin

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**APPROVED:**

Konradt Bartlam, City Manager

County, or another geographic area. Informal discussions with employees of these firms suggest that between 20 and 40 percent of their workers actually reside in Lodi and most felt they would have a hard time finding sufficient workers residing in Lodi to meet a 50-percent goal. At this stage, staff suggests that Council first give direction regarding whether it desires to pursue a local hiring preference. If Council does want to pursue the ordinance, staff recommends Council direct Public Works, Electric Utility, and the City Attorney's office to conduct open meetings with the construction industry. The meetings will be intended to explore concerns regarding the ordinance to insure that however it is ultimately crafted it operates effectively. Staff will then return with further recommendations if Council desires to pursue the ordinance.

**FISCAL IMPACT:** Not applicable.

**FUNDING AVAILABLE:** Not applicable.

  
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Stephen Schwabauer  
City Attorney

# EXHIBIT A

## ARTICLE 15 LOCAL WORKFORCE UTILIZATION PLAN

### § 15.1 Objective

§ 15.1.1 The Pasadena community is funding the City Hall Seismic Retrofit Project and the City wishes to provide all local subcontractors, businesses and residents the opportunity to participate in the renovation of the City Hall building. The purpose of the Local Workforce Utilization Plan is to communicate the objectives that the Contractor is expected to achieve and procedural requirements which are considered a minimum. The Contractor is to develop and coordinate proactive outreach programs to ensure that local residents, subcontractors and businesses are informed and involved in the ongoing procurement, employment and construction opportunities on the Project. The Local Workforce Utilization Plan focuses on three program goals: 1) local hiring, 2) local business participation through supplying goods and services, and 3) local workforce development. The Contractor and the City will mutually establish goals for local hiring which the contractor shall make every good faith effort to meet.

### § 15.1.2 Local Workforce Utilization and Hiring

GOAL: Compile a workforce that hires from the tremendously talented and diverse Pasadena community. The City and the Contractor shall establish a goal for local hiring that is based upon the types of skills needed to complete the project.

.1 Program Requirements: Local Workforce Utilization Plan work efforts are to include, but are not limited to:

- a. Contractor/subcontractor will prepare a monthly workforce utilization showing the employees' name, hours worked, trade, and residence. Contractor will prepare a monthly summary report for cumulative workforce for entire project.
- b. Contractor/subcontractor will notify, in writing, local unions and/or employment organizations, as appropriate, of available positions and request referral of local applicants.
- c. Contractor/subcontractor will maintain a list of all applicants, their address and interview result.

.2 The distribution of outreach information shall include, but not be limited to the following locations/groups:

- a. Chamber of Commerce
- b. African American Chamber of Commerce
- c. NAACP
- d. Urban League
- e. Latinos for Economic Awareness and Development
- f. Career Services One Stop Center
- g. Neighborhood Connections
- h. Church Network
- i. Libraries/Community Centers
- j. Local Construction Material Stores
- k. Pasadena Women at Work
- L. Pasadena Armenian Community Center

### § 15.1.3 Local Business Participation

GOAL: Purchase goods and materials from local suppliers where available and utilize local subcontractors in the performance of the work. City and Contractor to establish a target goal

based upon a review of goods and services utilized on the project for which local companies and suppliers exist.

**.1** Program Requirements: Local Workforce Utilization Plan work efforts are to include, but are not limited to:

**.1** A minimum of three (3) Business Opportunities Fairs (BOF) are to be conducted from the date of the Notice to Proceed through the duration of the project. The first BOF is to be initiated within two weeks following the date of the Notice to Proceed and shall include, but not be limited to the following:

- a. The BOF will be held at a convenient community facility.
- b. The BOF will provide information to businesses on subcontract scopes of work and bid requirements that will be available at the Project.
- c. The Contractor will provide pre-bid forms to be completed and returned to the Contractor for input into the database.
- e. Require attendance of all major subcontractors, project staff, and members of the Contractor estimating and purchasing teams.
- f. Contractor staff attending the BOF will be prepared to have one-on-one discussions with individuals regarding scopes of work, proposal requirements, bonding information and financing information.
- g. The BOF is to be advertised in local newspapers, local radio stations, trade and focus publications and the Project website. Information advertised will include but is not limited to Project website, brief information about the Project, direct phone number, mailing address and fax number for solicitation of bids. Advertisements will be completed prior to each major construction activity (e.g., excavation, foundation, mechanical, electrical, plumbing).

**.2** The Contractor will work in conjunction with local community organizations, including MBENVBEIDBEILBEIOBE to identify local subcontractors with interest in the Project. Local contractors identified are to be added to the Contractors master database.

**.3** Contractor will develop a list of work under \$100,000 for work that subcontractors and businesses in the local database could be competitive.

**.4** Using the City's outreach data as a starting point, Contractor is to create and maintain a master database of qualified individuals, subcontractors and businesses throughout the duration of the Project. The database is to include current information regarding local Pasadena individuals, subcontractors bidding the Project, contact names, phone and fax numbers, addresses and other information collected on the Subcontractor Information Form and the Construction Outreach Contact Sheet.

**.5** The Contractor is to provide a Subcontractor's Handbook for all interested subcontractors and suppliers. The handbook should include, but not be limited to:

- a. Descriptions of subcontractor requirements
- b. Calendar of local outreach program dates
- c. Local Business certification process
- d. Anticipated bid and purchase schedules
- e. Requisition/payment procedures
- f. Bonding seminars
- g. Regional resources for business assistance
- h. Contractors' associations

**.6** The CONTRACTOR will provide assistance to local Pasadena companies, including MBENVBEIDBEILBEIOBE firms, relative to obtaining plans and

specifications, reviewing sub-bid requirements, and referrals for bonding and insurance requirements.

#### **§ 15.1.4 Local Workforce Development**

GOAL: Provide an opportunity for interested Pasadena residents to learn how to obtain positions in the construction trades.

- .1 Program Requirements: Local Workforce Utilization Plan work efforts are to include, but are not limited, to conducting seminars which include representatives from groups such as construction trade organizations, California Department of Apprenticeship Standards, subcontractors, trade schools, etc. as a means of informing interested residents as to how to begin a career in construction.

#### **§ 15.1.5 Outreach Coordinator**

Contractor shall provide a full-time, onsite Outreach Coordinator (Coordinator) for the Project, whose principal duty is to facilitate local community participation in the Project and to provide public outreach. The job shall commence within thirty (30) days of Notice to Proceed, and shall last for the duration of the Project. The duties and responsibilities of the Coordinator shall include, but not be limited to, the following:

- .1 Be responsible for monitoring and coordinating overall compliance of the Contractor, subcontractors and suppliers, including, but not limited to:
  - .1 Attendance at construction meetings and at local outreach events.
  - .2 Liaison with the City staff and designated City representatives contracted to document compliance to outreach efforts.
  - .3 Facilitation of meetings with Contractor and subcontractors.
  - .4 Conducting site surveys and inspections.
- .2 Perform evaluating and reporting duties:
  - .1 Review and evaluate the current and projected work force for the Project. Prepare reports on said current and projected staffing data to be filed monthly, in a timely manner, to City staff.
  - .2 Work with the Contractor and subcontractors to resolve complaints of employment discrimination, including sexual harassment. If said complaints cannot be resolved at this level, prepare written report for submission to appropriate governmental agencies.
  - .3 Should the coordinator not be female, he will designate a female ombudsperson on the Contractor's staff to receive reports of sexual harassment by female employees.
- .3 Work with Contractor, subcontractors, unions, apprenticeship groups, and locally based minority and female groups in recruitment of potential employees.
  - .1 Coordinator shall try to ensure that public noticing of job referrals and opportunities is announced to locally based groups at least **24** hours in advance of intended hiring.
  - .2 The distribution of flyers and noticing information shall include, but not be limited to the following locations/groups:
    - a. Chamber of Commerce
    - b. African American Chamber of Commerce
    - c. NAACP
    - d. Urban League
    - e. Latinos for Economic Awareness and Development
    - f. Career Services One Stop Center
    - g. Neighborhood Connections
    - h. Church Network

- i. Libraries/Community Centers
  - j. Local Construction Material Stores
  - k. Pasadena Women at Work
  - L. Pasadena Armenian Community Center
- .4 Maintain records of all walk-in referral applications.
- .5 Develop and implement equal opportunity training programs that meet State apprenticeship/trainee requirement for number of trainees versus journeypersons for each trade which relate to the Project
- .6 Review and report on changes of subcontractors.
- .7 Coordinate with City staff and designated City representatives for provision to Contractor and subcontractors training and information regarding discrimination and sexual harassment.
- .8 Coordinate with City staff and designated City representatives on corrective action deemed necessary for complaints of discrimination and sexual harassment related to the Project.
- .9 Coordinate monthly submittal to City staff and designated City representatives of invoices for progress payments to local Pasadena business.
- .10 Compile and maintain accurate records of meetings, solicitations, advertisements, and awards so that upon request these will be provided to Owner.
- .11 Prepare a final report for the Project, containing:
  - .1 A summary of efforts made by Contractor and subcontractors during the Project in support of equal opportunity.
  - .2 An evaluation of the successes and failures of those efforts toward compliance with meeting stated goals.
  - .3 Submit this report to City staff and designated City representatives by the end of the Project.
- .12 Represent the Contractor at governmental meetings to discuss outreach activities, evaluations, and results of the Local Workforce Utilization Plan.
- .13 Qualifications of the Outreach Coordinator shall be as follows:
  - .1 Possession of a baccalaureate degree from an accredited university or college, preferably with main course work in personnel, public, or business administration, social sciences, or a closely related field.
  - .2 At least three years of professional experience, within the past five years, in an equal opportunity program with major duties in at least three of the following activities.
    - a. Preparing work force studies and utilization plans.
    - b. Preparing employment-related outreach recruitment of targeted groups.
    - c. Coordinating training programs for managers and employees in the areas of Equal Opportunity Employment.
    - d. Coordinating training programs for managers and employees in the areas of local hiring, discrimination and/or sexual harassment.
    - e. Investigating, evaluating, and reporting on findings of employment discrimination and complaints of sexual harassment, as well as mediating corrections of identified valid complaints.
  - .3 Be familiar with and credible to a majority of locally based representative groups.
  - .4 Additional experience as described above may be substituted for the degree on a year-for-year basis.
  - .5 Fluency in other languages is desirable but not necessary.
  - .6 Application is made by written statements which contain the following:

- a. Identifying information such as full legal name, current address, date of birth, driver's license number and state of issue, or California Identification Card number.
- b. Specific details of the qualifying experience, including names and current telephone numbers of reference individuals.
- c. Copies of all above-indicated degrees.
- d. Coordinating training programs for managers and employees in the areas of discrimination and/or sexual harassment.
- e. Investigating, evaluating, and reporting on findings of employment discrimination and complaints of sexual harassment, as well as mediating corrections of identified valid complaints.
- f. Resume shall be submitted to City staff.

**§ 15.1.6 Local Workforce Utilization Plan**

Contractor shall, at a minimum, do the following:

- .1 Contractor to develop a Local Workforce Utilization Plan which incorporates the detailed elements referenced in items A. through D. mentioned above.
- .2 Contractor to prepare and submit such work plan to the City and or City Representative for comment and approval.
- .3 Local Workforce Utilization Plan should be submitted to the City within 30 days after the Notice to Proceed.
- .4 Contractor is to prepare monthly status reports which outline the results of the outreach work effort to date, with detailed information on the programs and level of attendance at each.
- .5 Contractor to acknowledge that modifications to the outreach work plan will be required as the Project progresses and until target goals are achieved.

**EXHIBIT B****Stockton Municipal Code, Charter, and Civil Service Rules**

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**3.68.095 Local employment—Public works contractors.**

A. Findings. The City Council of the City of Stockton hereby finds that:

1. Unemployment rates in Stockton have been consistently higher than in California as a whole.

Statistics indicate that the higher unemployment level in Stockton correlates to a higher number of families living in poverty and to a higher crime rate.

2. Due to the lack of **local** jobs, much of the work force residing in Stockton is forced to commute long distances to find work, causing increased traffic on state highways, increased pollution, increased use of gas and other fuels and other serious environmental impacts.

3. Because of the shortage of **local** jobs, many residents of Stockton must leave for work very early in the morning and return late in the evening, often leaving children and teenagers alone and unsupervised during the hours between school and the parents return from work outside the area.

4. Absentee parents and unsupervised youth can result in increased problems for families, communities and the City as a whole, including, but not limited to, increased crime, more frequent and more serious injuries, poor homework accomplishments, failing grades and increased high school drop out rates.

5. The City Council of the City of Stockton has concluded that the City needs an expanding employment base and that a policy that encourages contractors who receive City contracts or subsidies to hire residents of Stockton will benefit the City as a whole.

6. Such policy will provide job opportunities to Stockton residents, expand the City's employment base, lessen the drain on public assistance resources and reduce the impacts on the environment caused by high unemployment and long commuting times to jobs outside the area.

B. Declaration of Policy and Purpose.

1. It is the policy of the City of Stockton to ensure full and equitable opportunities for Stockton residents to participate in the employment opportunities that arise from public works contracts.

2. It is also the policy of the City of Stockton to increase the number of employed persons living in the City of Stockton in an attempt to counteract the grave economic and social ills associated with the higher unemployment levels that exist within the City.

3. In furtherance of this policy the City of Stockton has established a **local hiring** program to encourage the **hiring** and retention of Stockton residents for the work to be performed under public works contracts.

C. Scope and Goals.

1. Unless such a provision would conflict with a State or Federal law or regulation applicable to a particular contract for public works or improvements, all City contracts for public works or improvements of estimated value or City subsidy of \$100,000.00 or more shall contain provisions pursuant to which the contractor promises to make a good faith effort, with the assistance of **local** labor union **hiring** halls or community organizations designated by the City to employ qualified individuals who are, and have been for one year prior to the effective date of the contract, residents of Stockton in sufficient numbers so that no less than 50 percent of



the contractor's total construction work force, including any subcontractor work force, measured in labor work hours, is comprised of Stockton residents.

2. Unless such provision would conflict with a State or Federal law or regulation applicable to a particular contract for a public works project, all City contracts for a public works project referenced in subsection (1) shall contain provisions pursuant to which each contractor or subcontractor shall make a good faith effort to employ apprentices who are enrolled in and participating in a viable apprenticeship program serving the San Joaquin Valley and approved by the State Department of Apprenticeship Standards. This apprenticeship requirement shall apply for each apprenticable craft or trade in which the contractor employs workers in performing any of the work under the contract.

(3) If, in response to a written request made at least **48** hours (excluding Saturday, Sunday and holidays) before the date on which one (1) or more apprentices are required, an apprenticeship program(s) does not dispatch any apprentice or dispatches fewer apprentices than requested to a contractor (that has agreed to employ and train apprentices in accordance with California Labor Code Section 1777.5) within 72 hours of such request (excluding Saturday, Sunday and holidays), that contractor shall be considered in compliance with the apprentice employment requirement for that trade or craft for a 90-day period from the request date, provided the contractor employs those apprentices who are dispatched. Where there is more than one (1) viable apprenticeship program for that trade or craft serving the San Joaquin Valley, a contractor, that is not a participant in or an affiliate of an apprenticeship program and receives fewer apprentices dispatched than requested, shall not be considered in compliance with the apprentice employment requirement unless the contractor has made a written request for the dispatch of apprentices from at least two (2) viable apprenticeship programs. A contractor, that is a participant in or an affiliate of an apprenticeship program, shall make dispatch requests to the program in which it is affiliated or participating.

4. In the event that no viable apprenticeship program exists for a particular craft or trade, the contractor shall be exempt from the requirements of this section with regard to that craft or trade.

5. A contractor employing apprentices pursuant to this section shall employ apprentices in a ratio of not less than one (1) apprentice for each five (5) journeymen in the apprenticeship craft or trade classification that are employed on the public work contract unless to do so would result in apprentice employment in ratios below the minimum ratios prescribed by California Labor Code Section 1777.5 in which case apprentice employment shall be at least in the ratios prescribed by California Labor Code Section 1777.5.

6. This section shall not be construed so as to exempt a contractor from any otherwise applicable requirement imposed upon the contractor by the California Labor Code.

D. Good Faith Effort. A bidder or contractor who fails to meet the goal of having 50 percent of its work force be residents of Stockton shall, nevertheless, be deemed to have made a "good faith effort" to hire sufficient numbers of residents of Stockton if, prior to execution of the contract with the City, six (6) or more of the following employee recruitment activities have been undertaken and documented:

1. Placing a valid job order for existing and projected position vacancies with the **local** office of the State Employment Development Department, for no less than 10 consecutive calendar days;

2. Placing a valid job order for existing and projected position vacancies with Worknet of San Joaquin County, for no less than 10 consecutive calendar days;

3. Advertising existing and projected position vacancies, job informational meetings, job application workshops, job application centers and job interviews by posting notices which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process, in conspicuous **local** authorized public places, including but not limited to the City Hall, schools, post offices, libraries, and senior citizens' centers;

4. Conducting a job informational meeting to inform the community of employment opportunities of

the contractor, to be held at a City or other public facility (may be combined with other contractors);

5. Providing ongoing assistance to Stockton residents in completing job application forms;

6; Conducting a job application workshop to assist the community in applying and interviewing for jobs in the contracting industry, to be held at a City or other public facility (may be combined with other contractors);

7. Establishing a job application center located in the City of Stockton, where job applications may be obtained, delivered to and collected;

8. Conducting job interviews within 10 miles of the location designated for contract performance;

9. Advertising valid existing and projected position vacancies through the **local** media, such as community television network, **local** newspapers of general circulation, and trade papers or minority focus newspapers;

10. Telephone solicitation of known potential **local** subcontractors or employees;

11. Any other means of obtaining employees who are residents of Stockton that are reasonably calculated to comply with the goals of this section.

E. Required Documentation.

1. The contractor shall keep, and provide to the City, on standardized forms acceptable to the City, an accurate record showing the name, place of residence, hours employed and per diem wages and benefits of each person employed by the contractor, and the contractor's subcontractors, on the specific public works project, including full-time, part-time, permanent and temporary employees.

2. The contractor shall keep, and provide to the City, on forms acceptable to the City, an accurate record documenting the contractor's good faith efforts to comply with the **local** resident employment and apprentice employment provisions of this section. Said records shall include: a listing by name and address of all **local** recruitment sources contacted by the contractor; the date of the **local** recruitment contact and the identity of the person contacted; the trade and classification and number of employment referrals requested; the number of **local** residents employed as a result of the contact; and the identity and address of the person(s) employed pursuant to the contact.

F. Forms Submitted Under Penalty of Perjury. All forms required under this section shall attest to the veracity of the information set forth therein and shall be submitted under penalty of perjury.

G. Irresponsible Bidder Declaration. Should any contractor or subcontractor fail to abide by the good faith **local** resident employment and apprentice employment provisions of this section, the contractor or subcontractor may be declared by the City to be an irresponsible bidder on future projects pursuant to Section 3.72.010 of this code.

H. Binding on Subcontractors. The good faith **local** resident employment and apprentice employment provisions of this section shall bind the contractor both with respect to persons employed directly by the contractor and to all persons employed by the contractor's subcontractors. The contractor shall be responsible for assuring that all subcontractors document said compliance by submitting, and making available to the City, the forms required by this section.

I. Definitions. As used in this section, the following terms shall have the following definitions:

"Contract for public works or improvement" means any contract with the City for construction, alteration, demolition or repair work.

"Qualified individual" means an individual who is in a certified State or Federally approved apprenticeship program in an applicable trade or has become a journey person in his or her applicable trade.

"Resident of Stockton" means an individual who has been domiciled, as defined by Section 200(b) of the

California Elections Code, within the boundaries of Stockton for at least one (1) year immediately preceding the date of the award of contract by the City and who can verify his or her domicile upon request of the contractor or City by producing documentation such as a rent/lease agreement, telephone and utility bills or payment receipts, a valid California driver's license or identification card, and/or any other similar, reliable evidence that verifies that the individual is domiciled within Stockton. For the purposes of this section, the following Zip Code areas are considered to be within Stockton: 95202,95203,95204,95205,95206,95207,95209,95210,95212,95215 and 95219.

"Viable apprenticeship program" means an apprenticeship program approved by the California Department of Apprenticeship Standards that has graduated apprentices annually for at least the past five (5) years. Any apprenticeship program that has been approved for less than 10 years shall be deemed a viable apprenticeship program provided that, following the fifth anniversary of its approval by the California Department of Apprenticeship Standards, it graduates apprentices each subsequent year.

J. Contracts – Bid Documents – Subcontracts.

1. Contracts and bid documents shall incorporate this section by reference and shall provide that the failure of any contractor or subcontractor to comply with any of its requirements shall be deemed a material breach of the contract or subcontract.

2. All subcontracts shall expressly acknowledge the City's status as a third party beneficiary to that subcontract and further expressly acknowledge that the City, as a third party beneficiary, shall have the right to enforce the provisions of this section with regard to that subcontract or seek remedies available under this section should a party to the subcontract fail to comply with any of the provisions of this section that apply to the subcontract.

3. Contracts and bid documents shall require bidders, contractors and subcontractors to maintain records necessary for monitoring their compliance with this section.

K. Exceptions. The provisions of this section shall not apply:

1. Where the City determines that the contract is necessary to respond to a declared emergency which endangers the public health, welfare or safety and there is no time to apply the provisions of this section.

2. To City construction contracts or portions thereof, wherein the work is of a highly specialized nature as determined by the City Council when the contract specifications are approved. (Ord. 011-09§ 1, eff. 10-01-09)

**Randi Johl**

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**From:** Randi Johl  
**Sent:** Wednesday, January 19, 2011 1:11 PM  
**To:** Randi Johl  
**Subject:** SRBX- Item 1-01- Strongly Opposed

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**From:** Scott Whyte [mailto:scott@sacregionbx.com]  
**Sent:** Wednesday, January 19, 2011 12:38 PM  
**To:** Alan Nakanishi; Phil Katzakian; Larry Hansen; JoAnne Mounce; Bob Johnson; Randi Johl  
**Subject:** SRBX- Item I-01- Strongly Opposed

TO: Honorable Mayor Johnson and Councilmembers

FROM: Sacramento Regional Builders Exchange

DATE: January 19, 2011

RE: **Item I-01- Strongly Opposed**

The Sacramento Regional Builders Exchange (SRBX), a commercial construction trade association representing over 3,000 member businesses, strongly opposes the drafting of a "local hire Ordinance" in the City of Lodi.

We agree that hiring local people is a noble goal, and an objective our organization works towards every day. However, trying to accomplish this goal in this manner has many drastic and serious flaws, which City Staff acknowledges within its report. Mandating construction companies to hire 50% of their workers locally is a high public safety risk. In a City of relatively small population, companies will be forced to hire residents who do not have the qualifications or safety training just to meet a city imposed quota.

The employing of people based on their residence and not the content of their character/qualifications is of violation of the United States Constitution (Equal Protection Clause, Commerce Clause). Not only will this practice invite a plethora of expensive law suits, but it will also drive up costs on projects because construction firms will be strictly limited from hiring the best available workforce. The outreach City Staff did with local construction companies underlines this concern.

We suggest a strong alternative that accomplishes the same goal, a "Regional Bid Preference". Regional Bid Preference is based on "local regional companies" not "local individual workers". Secondly, it broadens the region to include multiple counties to ensure the City obtains enough qualified companies and workers for all bidding jobs. This will eliminate the public safety risk, cost less and keep tax dollars/wages local, and help employ workers within the region.

We urge Honorable Councilmembers to reject the formation of a restrictive local hire ordinance. However, see the pursuit of a "regional bid preference" as a favorable alternative.

Thank you for your time and consideration.

Sincerely,

**Scott Whyte**  
**Political Director**  
**Sacramento Regional Builders Exchange**  
**P: (916) 442-8991**  
**F: (916) 446-3117**

01/19/2011